S.B. CIVIL WRIT PETITION NO. 1108/2005

SHYAMA DAS & ORS.

VS

GOPAL DAS & ORS.

DATE OF ORDER : 11.3.2005

HON'BLE MR. PRAKASH TATIA,J

Mr. G.R.Punia, for the petitioners.
Mr. L.R.Choudhary, for the respondents.

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Heard learned counsel for the parties.

The petitioners are aggrieved against the order dated 14.2.2005 by which the petitioners' application for becoming the party in the suit was rejected by the trial court.

Learned counsel for the petitioners submits that since the notice was published under Order 1 Rule 8 CPC as the mater is relating to the public trust, therefore, the petitioners applied for becoming the party in the suit. The trial court should not have dismissed the petitioners' application because the trial court itself issued the notice inviting public at large to become the party in the suit.

It appears from the copy of the application submitted by the petitioners that they without disclosing what their interest are in the said trust and without disclosing the reason for becoming the party, they merely submitted the application stating therein that they want to place before the court their opinion.

In view of the above, the trial court has not committed any mistake in rejecting the petitioners' application.

Learned counsel for the petitioners submits that opportunity may be granted to the petitioners to move an appropriate application under Order 1 Rule 8 read with Order 1 Rule 10 CPC as the petitioners are very much effected parties in case any order is passed by the court in the mater of the trust.

It is true that petitioners submitted the application, which was rejected by the trial court, but it appears that stage of the suit is only at initial stage, therefore, the petitioners may submit a fresh application with reasons on the basis of which they want to become the party the suit.

The plaintiff shall have full opportunity to contest the application

of the petitioner.

The trial court may pass appropriate order in case any application is filed by the petitioners for becoming party in the suit uninfluenced by the rejection of the petitioners' application by order dated 14.2.2005.

Hence, the writ petition of the petitioners is disposed of.

(PRAKASH TATIA),J.

c.p.goyal/-